

Application No. 10/709,172
Amdt. dated May 18, 2005
Reply. to Office Action of March 25, 2005

060494-0001

REMARKS/ARGUMENTS

In the specification, the abstract has been amended and replaced with a new paragraph, as shown on page 7 of this paper to remove minor editorial problems. Further, the claims of the present invention have been amended as discussed below:

Status of Claims:

In the application, claims 1-15, 17-25 and 31-35 are presently amended and are currently pending in the application. Claims 16, 26-30 are cancelled.

Claim Rejections under 35 U.S.C. § 112 (1st)

Claim 31-35 were rejected under 35 U.S.C. 112, first paragraph for failing to comply with the enablement requirement. As amended, claim 31 describes a method for containment of an oil spill. When an oil spill occurs from an oil container, the spread of leaking oil can be contained by at least partially surrounding the container with crushed glass. For example, in an underground storage tank, if only the base of the tank is surrounded by crushed glass, then when the oil tank leaks, the leaking oil will seep onto the crushed glass layer and be absorbed on its surface, thereby containing the spill from spreading to the soil/earth below the tank.

Accordingly, Applicant respectfully requests reconsideration of Section 112, paragraph rejection for claims 31-35.

Claim Rejections under 35 U.S.C. § 112 (2nd)

In the application, claims 1-35 were rejected under 35 U.S.C.. 112, second paragraph as being indefinite for failing to particularly point out and distinctively claims the subject matter

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that the applicant regards as the invention. In response, Applicant has amended all claims to clearly indicate the claim numbers. As the Office is aware, this application was prepared and filed electronically using USPTO's ABX software, beta version. This beta version generated auto renumbering and auto reformatting of claims, such that claim 1 was auto-reformatted to C1, and so forth. Applicant has amended all the claims to correct this error such that C1 has been replaced by Claim 1, and so forth. Accordingly, Applicant believes that the claims have now been appropriately reformatted to indicate each claim number and each claim dependency.

Further, claim 9 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Per the Office it was unclear what it meant for the crushed glass to be pre-crushed. As paragraph [0029] explains, when the crushed glass is clean no pre-crushing is required. However, since most of the crushed glass used in this invention is obtained as bottles or containers from recycling centers, often these bottles and containers have garbage associated with them. Accordingly, these glass bottles and containers need to be pre-crushed/pre-screened to remove syringes, bones etc. When, the glass is already in clean form, no pre-crushing or pre-screening is required.

Finally, claim 1 has been amended to remove minor informality, substantially as recommended by the Examiner.

In view of the above arguments and amendments Applicant respectfully requests the Office to reconsider rejections based on Section 112, paragraph 2.

Claim Rejections under 35 USC § 102:

In the Office Action, claims 1-3, 6, 9 and 11 were rejected under 35 U.S.C. Section 102(b) as anticipated by Rowsell, US Patent 5,342,525. The '525 patent generally teaches

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removal or cleaning-up of oil spills through the use of flocculation/microorganism compositions including amine-substituted clay flocculation agents and microorganisms including bacillus species, pseudomonas species, azobacter species and xanthomonas species. The disclosure further teaches that the mixture of enumerated microorganisms can be admixed with an appropriate inert substance which serves as "carrier" materials for the microorganisms. The inert substance used as a carrier includes ground glass powder. See Col. 22, lines 51-68. Accordingly, per Rowsell's disclosure, ground glass powder is at best considered as an "inert" substance that simply serves as a "carrier" for the microorganisms, where the microorganisms in turn act as a digesting agent for oil. Finally, Rowsell does not teach that the ground glass admixed with the microorganisms be dried to at least 100°F.

Overall, Rowsell's disclosure does not teach the use of crushed glass as the medium for removal of oil from oil spill and heating the crushed glass to 100F, in contrast to amended claim 1, of the present invention.

Since all elements of the claimed invention, namely the method of removal of oil spill by application of crushed glass, which is dried to 100F, is not taught by the Rowsell disclosure; Applicant believes that the present invention as claimed is not anticipated by Rowsell's disclosure. Furthermore, Rowsell's disclosure, whether taken singly or taken in combination with other references does not teach or suggest Applicant's claimed invention.

Applicant therefore requests the Examiner to reconsider the Section 102 (b) rejections in view of the above arguments and amendments.

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Rejection under 35 USC § 103:

Claims 7-8 and 10 were rejected under 35 U.S.C. Section 103(a) as being obvious over Rowsell. However, Rowsell does not teach use of crushed glass for removal of oil from oil spills, where the crushed glass has been dried/heated to 100F. Further it is not obvious to preferentially use, for example roller crusher for producing the crushed glass of this invention, when it has not been recognized as a superior technique in the art. One of ordinary skill in the art cannot determine without conducting undue experimentation, that this roller crusher produces better results than other crushing techniques as discussed in paragraph [0028]. The inventor has observed that better oil adsorption occurs when the glass is crushed using a roller crusher. See paragraph [0028].

Further, it is not obvious to one of ordinary skill to preferably use colored glass which has been dried to 100F for removal of oil spill, since colored glass, vis-à-vis uncolored glass adsorb oil differently, as discussed in paragraphs [0022-0027]. This advantage of using colored glass has not been recognized in the art. Furthermore, one of ordinary skill would not come to this conclusion of choosing colored glass preferentially to uncolored glass without undue experimentation.

Accordingly, Applicant respectfully requests that claims 7-8 and 10 be reconsidered and obviousness rejection over Roswell be withdrawn based on Section 103(a).

Objections

Claims 4-5 and 12-25 were rejected as being dependent on rejected base claim. However, Applicant respectfully would like to note that claim 22 is an independent claim and should be allowable without any objections, along with claims 23-25, which depend on it.

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Further, since claims 4-5, 12-15 and 17-21 are claims that depend from independent claim 1, these claims should be allowable since applicant believes that the amended claim 1 is novel and non-obvious over the cited reference of Rowsell, especially in view of the above amendments and arguments.

Applicant accordingly believes that the claimed invention as described in claims 1-15, 17-25 and 31-35 is patentable over the prior art, and a prompt and favourable decision is earnestly solicited.

Finally, Applicant believes that all the issues have been correctly addressed and earnestly solicit a favorable action.

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CONCLUSIONS

It is respectfully submitted that claims 1-15, 17-25 and 31-35 are in condition for allowance and notice to that effect is earnestly solicited. The Examiner is urged to telephone the undersigned in the event a telephone discussion would be helpful in advancing the prosecution of the present application. The Office is further authorized to charge the processing fee or any other surcharges, or underpayment, including extension of time, as deemed necessary and appropriate to the Deposit Account 07-1509 of Godfrey & Kahn, S.C.

Respectfully submitted,

GODFREY & KAHN, S.C.

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